

645-2020

CERTIFIED COPY OF ORDER

STATE OF MISSOURI

County of Boone

} ca.

December Session of the October Adjourned

Term. 20 20

In the County Commission of said county, on the

31st

day of

December

20 20

the following, among other proceedings, were had, viz:

Now on this day the County Commission of the County of Boone does hereby approve the updated Chapter 100 Policies for Boone County, Missouri. The full text of the policies is attached hereto.

Done this 31st day of December 2020

ATTEST:

Brianna L. Lennon
Brianna L. Lennon
Clerk of the County Commission

Daniel K. Atwill

Daniel K. Atwill
Presiding Commissioner

Fred J. Parry
Fred J. Parry
District I Commissioner

Janet M. Thompson
Janet M. Thompson
District II Commissioner

CHAPTER 100 POLICY

BOONE COUNTY, MISSOURI

[Adopted 12-31-2020]

INTRODUCTION AND SUMMARY

Boone County, Missouri offers new and existing businesses meeting certain investment and employment thresholds, and other criteria, the opportunity to receive real property tax abatements and business personal property tax abatements for up to ten (10) years. This is accomplished through the issuance of bonds under Chapter 100 of the Missouri Revised Statutes (RSMo Secs. 100.010-100.200). As of January 1, 2019, six (6) Boone County businesses have taken advantage of the program. The County's process has four (4) basic steps:

1. Confidential Initial Application. A company considering an investment anywhere in Boone County can notify the County of its interest through REDI. This preliminary notice does not name the actual company and it includes a general description of the project as well as proposed capital investment and employment levels (new and/or preserved). The County Commission's liaison Commissioner to REDI will review the information and, if he or she deems the project worthy of further exploration, will respond with a letter stating that Commissioner's intention to support an offer of incentives under the Chapter 100 program to the full Commission based on the general description provided and subject to meeting the requirements contained in the County's policy.
2. Closed Meeting(s) with County Commission. Should a specific location in Boone County be a "finalist" in the company's consideration for the investment, an appropriate number of closed meeting(s) with company representatives, the three County Commissioners, County Counselor, and REDI officials will be scheduled through REDI. The purpose of these meetings is to officially begin consideration of the abatement process by discussing the project in more detail including any infrastructure capacity constraints identified by the County, REDI, or the company. Any questions regarding the abatement program and process should be vetted during these discussions.
3. Public Application Process. After the company decides to formally request a Chapter 100 tax abatement in compliance with the County's policy, a formal public application is made through REDI to the County Commission. The application includes project details and proposed performance agreement metrics. A copy of the current application can be obtained through REDI. The County Commission, through REDI, will then forward the application to all directly affected taxing jurisdictions for review and recommendations. REDI will coordinate this process as outlined in the County's policy. Should a majority of the impacted taxing jurisdictions recommend awarding the

requested abatements, that recommendation will be forwarded to the Commission for final consideration after two (2) public hearings during which the Commission will receive public comment. The Commission may then vote to approve the abatement.

4. Final Documents. The County's bond counsel, in consultation with the County Counselor, will prepare necessary contracts with the applicant company to effectuate the abatement, including a Performance Agreement, for Commission approval. This step generally occurs near the end of the construction phase of the project.

STATEMENT OF PURPOSE

This policy is adopted in an effort to attract companies which would bring or retain significant new capital investment and/or create employment opportunities which pay above the county average wage in the County of Boone. This Chapter 100 Policy will be used as an economic development tool only when absolutely necessary due to competitive situations and only when the business investment would not occur but-for the use of incentives contemplated in this policy. Geographically, the County of Boone Chapter 100 Program is available at any location inside the County of Boone. The actual site selection process is governed by the individual needs of the company/project. The applicant understands that the Chapter 100 Revenue Bond approval process is public in nature and that information provided by the applicant in its formal application will be open material and subject to public review. In addition, any development project requesting tax abatements will be evaluated for impacts on infrastructure (including, but not limited to, road impacts, utility impacts, stormwater impacts, etc.) once a site has been selected and the applicant is expected to cooperate with the County Commission in identifying anticipated impacts and, when appropriate, may be expected to contribute to the necessary improvements to support the site development.

The issuance of revenue bonds under Chapter 100 of the Missouri Revised Statutes ("Chapter 100") is one tool available to the County of Boone to encourage economic development. RSMo Secs. 100.010-100.200 authorize the County of Boone to issue bonds for "the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities which provide interstate commerce, and industrial plants, including the real estate either within or without the limits of such municipalities, buildings, fixtures, and machinery." Article VI, Section 27(b) of the Missouri Constitution also allows revenue bonds to be issued for "commercial" purposes, but this policy excludes retail projects. In a Chapter 100 transaction, the assets are

owned by the County of Boone and are leased back to the beneficiary company. The revenue bonds are payable solely from revenue (usually rentals) received from the project (the beneficiary company is the underlying creditor on the bonds), and the revenue bonds are not a general obligation of the County of Boone. The County of Boone will accept no credit risk in issuing bonds for the proposed project. The revenue bonds may be secured by a mortgage on the project. As a function of Missouri law, because the County of Boone holds title to the project, the project is exempt from real and personal property taxation (although the leasehold interest may be subject to taxation if it determined that there is a "bonus value" under the lease). Although a project is 100% exempt from real and personal property taxes, a negotiated "grant" payment or PILOT (Payment-In-Lieu-of-Taxes) of typically 50% from the beneficiary company shall be made to all impacted taxing jurisdictions. The term all "impacted taxing jurisdictions" may include, but is not limited to, fire protection districts, library districts, road districts, etc., in addition to cities, school districts, and the county. The intent of this policy is not to exclude any impacted taxing entity. The beneficiary company will enter into a Performance Agreement with the County of Boone pursuant to which it agrees to make "grant" or PILOT payments or equivalent contributions to the County of Boone and all other impacted taxing jurisdictions as detailed in the following Eligibility Qualifications. Chapter 100 exemptions do not apply to the Commercial Surcharge (a/k/a Commercial surtax), a tax implemented to eliminate the personal property taxes on inventory and which is distributed to all taxing entities that levied a personal property tax in 1985.

The County Commission of the County of Boone is under no obligation to approve any requested incentive. The County of Boone must balance its goal of fostering a healthy business climate with the objective of maintaining a high quality of life for its citizens.

SALES TAX EXEMPTIONS

The State of Missouri's sales tax statutes provide for sales tax exemptions for machinery and equipment to establish new or expand existing manufacturing, mining or fabricating plants if used directly in manufacturing, mining or fabrication of a product which is intended to be sold ultimately for final use of consumption (manufacturing equipment). Two (2) other possible Boone County Chapter 100 Revenue Bond sales tax exemptions are described below:

A sales tax exemption on purchases of tangible personal property and materials used to construct, repair, or remodel facilities (construction materials) under the Boone County Missouri Chapter 100 Policy may be

granted if the project:

- 1) Has been offered competing incentive proposals
- 2) Pays wages above the average county wage as determined annually by MoDED (calculated at the project level)
- 3) Has received a commitment from MoDED for state incentives commensurate with local incentives
- 4) Provides a positive County Impact as determined by the County Commission
- 5) And receives prior approval of the County Commission as detailed in this policy.

To receive a sales tax exemption on non-manufacturing tangible personal property not otherwise defined in this policy (non-manufacturing equipment), the qualifying project must have been determined to meet the eligibility criteria as established by the Missouri Department of Economic Development **and** receive a certification from the Missouri Department of Economic Development for a project sales tax exemption.

ELIGIBILITY QUALIFICATIONS – investment thresholds and job requirements:

Projects for Industrial Development:

Chapter 100 tax abatements are available for new and existing employers engaged in projects for industrial development as further defined in this policy.

All applicants must meet the following minimum amount of capital investment and job creation targets to be considered for the listed level of property tax abatement incentives under this policy:

- **New Companies**

- Companies new to the county may receive:
 - Up to a 50% abatement with a capital investment of at least \$60 million with the average wage of the total new jobs being at or above the county average wage with at least 60 of those new jobs each paying at or above 90% of the county average wage throughout the term of the incentive.
 - Up to a 65% abatement with a capital investment of at least \$75 million with the average wage of the total new jobs being at or above the county average wage with at least 80 of those new jobs each paying at or above 100% of the county average wage throughout

the term of the incentive.

- Up to a 75% abatement with a capital investment of at least \$100 million with the average wage of the total new jobs being at or above the county average wage with at least 100 of those new jobs each paying at or above 110% of the county average wage throughout the term of the incentive.
 - Investments not meeting the above thresholds may be eligible for an abatement of less than 50% with approval of the County Commission.
 - All abatements for real property will be for no longer than 10 years. All abatements for business personal property will be for no longer than 10 years or the class life of the business personal property, whichever is less.
- **Existing Companies**
 - A business currently located in the County of Boone may receive:
 - Up to a 50% abatement with a new minimum capital investment of \$20 million for the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities which provide interstate commerce, and industrial plants, including the real estate either within or without the limits of such municipalities, buildings, fixtures and machinery if job retention/job creation thresholds are met.
 - An abatement of more than 50% for business personal property will be considered only if the applicant foregoes any request for a real property tax abatement.
 - Abatements will be conditioned upon significant job retention and/or job creation for individual positions that pay at or above the county average wage as determined annually by MoDED for the term of any incentive.
 - All abatements for real property will be for no longer than 10 years. All abatements for business personal property will be for no longer than 10 years or the class life of the business personal property, whichever is shorter.

In addition to the above requirements, all applicants must meet the following requirements:

1. Project must locate or expand in the County of Boone.
2. At the end of the incentive period, which shall not exceed 10 years, the applicant will make grant or PILOT payments equal to 100% of the normal tax revenues for real and personal property until the real and personal property returns to the tax rolls.

3. Replacement of equipment financed under a previous Boone County Chapter 100 bond issuance is not eligible for further Chapter 100 incentives.
4. Grant or PILOT payments are due on the same date that personal and real property taxes are due in Boone County. Late payments shall be subject to the same penalties and interest as provided in Missouri law for delinquent taxes. As provided by state law, grant payments shall be calculated each year by the County Treasurer based on the appropriate ad valorem levy rates for all impacted taxing entities.
5. If the Boone County Commission approves the application for a Chapter 100 transaction and the development site is within the County's land use jurisdiction, the applicant will be subject to and shall agree to follow all current zoning and development regulations, building permit regulations, and land development processes that apply to the subject development site. If the development site is located in an incorporated municipality, the applicant understands that land use and building regulations will be as determined by the municipality. Applicant's signature on application shall be a certification that applicant agrees to acknowledge and comply with all current zoning and development regulations and processes applicable to the subject development site.
6. In order to be considered by the County Commission and the impacted taxing entities, all Chapter 100 program applications will include a report (fiscal impact analysis) prepared by the applicant and REDI explaining the estimated amount of expected, increased property tax revenue to all of the impacted taxing jurisdictions as a result of the project. This analysis shall include expected taxing revenue to all impacted taxing jurisdictions compared to the amount of the proposed exemption and may include, when applicable, any potential impacts to sales taxes or other revenue sources to an impacted taxing jurisdiction.
7. The applicant and the County Assessor will mutually agree to the class life for all business personal property as contemplated in RSMo Sec. 137.122 (which adopts the MACRS life tables under the Internal Revenue Code) that are part of a Chapter 100 bond issuance.
8. The applicant must include information, including documentation, justifying its request for the use of Chapter 100 Revenue bonds. This information shall include a detailed description of all incentives offered by any other entity (example – MoDED, City of Columbia utilities, etc.) to incentivize economic activity in Boone County, Missouri. For a company with locations only in Boone County, Missouri, the applicant should submit evidence of competing offers from other states or localities or internal corporate competitive bidding processes.
9. Once a project site has been identified in Boone County, the applicant, with the assistance of REDI, will be expected to participate in and/or complete the following:

- a. Site Needs Assessment: A site-specific needs assessment for the identified project site shall be completed by REDI with applicant's assistance and consultation with appropriate county staff. Said needs assessment shall be completed on form(s) approved by the County.
- b. Due-Diligence Inquiries and Responses: The applicant is expected to participate in and respond to due diligence inquiries from REDI, MoDED, Missouri Partnership, utilities, and any other public entities involved, and that information shall be shared with the County Commission.
- c. Meeting with County Commission: After completion of all due diligence inquiry responses, the site needs assessment, the property tax revenue report completed by REDI, the community impact statement contemplated in this policy, and any other preliminary matters, the representatives from the applicant with authority to bind the applicant will be expected to attend and participate in a concept review meeting with the County Commission for purposes of discussing any due diligence issues and beginning negotiations on any issues that will need to be addressed in the Performance Agreement or other agreements that may be required by the County Commission in order to proceed with this Chapter 100 process. This meeting shall be a closed meeting with the County Commission and REDI representatives as authorized by RSMo Sec. 610.021 (12) for negotiated contracts and will precede the involvement of the Taxing Entity Review Panel contemplated in this policy. If not already completed by the applicant prior to this meeting, the County Commission may direct the completion of a cost-benefit analysis to include an economic impact analysis, an updated or new fiscal impact analysis, and/or an infrastructure impact analysis directed to any potential capacity constraints. If there are infrastructure capacity constraints identified as associated with the subject site, the County Commission will engage the applicant in identifying those issues and will negotiate with applicant regarding applicant's willingness to participate in solutions for those identified capacity constraints. The County Commission expects the applicant to engage in discussions regarding its corporate citizenship plans and its commitments regarding community engagement and levels of philanthropy which benefit Boone County.
- d. Certification of Adequate Infrastructure: If the Chapter 100 project site is located within the boundaries of a municipality, the applicant will be expected to obtain certifications from the appropriate city official(s) with jurisdiction certifying that adequate city-provided infrastructure exists to support the project from any normal city-provided service, to include but not be limited to, city-provided fire, police, road, electric, water, stormwater, sewer,

trash, and/or any other city-provided infrastructure or service to the site.

COMMUNITY IMPACT STATEMENT

A Community Impact Statement shall be generated by the applicant and REDI to aid the County Commission in evaluating the issuance of Chapter 100 revenue bonds. A Community Impact Statement shall be performed on all Chapter 100 projects. The intent of the Community Impact Statement is to provide the Boone County Commission with a holistic picture of the project's impact. Upon receipt of a Chapter 100 bond application, the County of Boone may ask the applicant to provide additional information. The applicant's responses relating to the following considerations will be considered in determining whether the use of Chapter 100 revenue bond financing will be pursued:

1. Employment Impact – In evaluating the employment potential of a given enterprise, the following will be taken into consideration:
 - a. Number of additional employees and/or number of employees retained due to the project.
 - b. Number of expected additional residents to the County as a result of the project.
 - c. Skill and education levels of such employees.
 - d. Range of salaries, benefits, and other compensation of employees. The company's average wage for individual jobs created by the project will be measured against the average Boone County wage as published annually by the Missouri Department of Economic Development.
2. Financial strength of the beneficiary company.
3. The impact of the project on schools, existing businesses, and infrastructure.
4. Anticipated revenues and tax generation because of the project.
5. Compatibility of uses/zoning issues (due deference is given to any participating municipality), including evidence of applicant's compliance with all current development processes and procedures in the County of Boone and the potential of the beneficiary company to be willing and able to comply with all land-use and zoning requirements and building codes to operate the facility.
6. Willingness of beneficiary company to accept "clawbacks," or base requirements on employment targets, wages, and penalties for breach of agreement as determined through negotiation.

7. Extent to which a new or expanded business will compete with existing businesses in the area, including the potential impact on other existing County employers.
8. Discussion of the impact of any relocation of the applicant within the County.
9. The beneficiary company's willingness to address community impacts caused by the scope of the proposed project.
10. Potential for future expansion of the project.
11. General environmental impact on the area using current local development standards for environmental assessments.
12. The applicant's willingness to maintain a payroll account with a financial institution with a physical location in Boone County, which is strongly encouraged.

TAXING ENTITY REVIEW PANEL

The Boone County Commission, in conjunction with REDI, will establish a Chapter 100 Review Panel consisting of a representative of each taxing jurisdiction impacted by the specific Chapter 100 proposal, before any formal request for approval of incentives is submitted to the Boone County Commission for final approval. The review panel shall consist of those taxing entities providing direct services to the impacted site. The representative of the taxing jurisdiction shall be an officially designated representative of the taxing jurisdiction and documentation of such official designation of representative to act on behalf of the taxing jurisdiction shall be made part of the minutes of the Taxing Entity Review Panel. A County Commissioner may join the review panel as a voting member for any pending application. REDI staff will review issues involved with development of the project and share pertinent information with authorities of all impacted taxing jurisdictions. After review of the preliminary project information by the review panel, a majority vote of the review panel is required before the applicant submits its formal application for approval of incentives to the Boone County Commission. Upon completion of this review, impacted taxing entities may also submit a response form projecting the impact of the proposed project on said taxing jurisdictions during the requested abatement period. If the County Commission identifies any particular issues with an application or the information from the application is modified in any material way after its initial submission to REDI, the County Commission may remand the application back to the Taxing Entity Review Panel for additional

analysis on the factors identified by the County Commission. The report(s) from the Taxing Entity Review Panel will be a part of the Community Impact Statement submitted to the County Commission of the County of Boone as part of the final approval process. The review and report of impacts by the taxing jurisdictions will be made in a timely fashion as determined by a mutually agreed upon timetable.

PERFORMANCE AGREEMENT AND ANNUAL REPORTING

If Chapter 100 bonds are issued in a project, the applicant will enter into a Performance Agreement on terms and conditions acceptable to Boone County. That Performance Agreement shall contain the following provisions:

- Firm commitments on employment targets, their percentage relationship to the county average wage, and an annual measure date for determining compliance with said targets, along with a schedule adjusting the abatement downward for failure to meet the employment targets. The Performance Agreement will calculate jobs that meet or exceed the county average wage as determined annually by the MoDED at the individual job level.
- For projects involving real property, a waiver of the right to protest or appeal the applicant’s real property assessment if the new assessed valuation for the property is not more than 105% of the total amount of the assessed valuation for said property as set forth in the applicant’s cost-benefit analysis contained in the Chapter 100 plan.
- For projects involving business personal property, a waiver of the right to protest or appeal the applicant’s personal property assessment if the new assessed valuation for the property is not more than 105% of the total amount of the assessed valuation for said property as set forth in the applicant’s cost-benefit analysis contained in the Chapter 100 plan. In addition, the applicant will be expected to file annual declarations of their business personal property, both Chapter 100 related and non-Chapter 100 related, in a manner that facilitates ease of administration of the assessment function by the Boone County Assessor’s office and which provides a full reporting of all of the applicant’s business personal property located in Boone County.
- Provision for reimbursement to the County for the County’s costs of issuing the bonds and administering the Chapter 100 PILOT billings and payments.

If Chapter 100 bonds are issued in a project, the applicant shall timely provide Boone County and REDI employment, wage, and other information reasonably necessary to determine compliance with the Performance Agreement throughout the term of any incentive provided to the applicant.

APPLICATION FEES AND PROCESSES

All costs and fees are borne by the beneficiary company or developer seeking to use Chapter 100 financing. A \$2,000 non-refundable pre-application fee will be collected by REDI. The beneficiary company or developer seeking to use Chapter 100 financing will be required to execute a predevelopment agreement to address any of the costs identified by the County to consider the Chapter 100 application. If it is determined by the County Commission that an Economic Impact Analysis, a Fiscal Impact Analysis, or some other study is necessary to evaluate the applicant's application, the applicant will be expected to pay all or part of the costs of those indicated studies as agreed upon by the applicant in advance of the commissioning of the study.